



Moody's Investors Service

Global Credit Research
 Rating Update
 26 JUN 2007

Rating Update: **Jefferson (County of) AL**

MOODY'S NOTES POTENTIAL CREDIT IMPACT OF LAWSUIT CHALLENGING VALIDITY OF JEFFERSON COUNTY (AL) OCCUPATIONAL TAX

Birmingham-Jefferson Civic Center Authority, AL
 Municipality
 AL

Opinion

NEW YORK, Jun 26, 2007 -- Moody's Investors Service will continue to monitor the potential credit impact of a lawsuit filed on May 11, 2007, in Jefferson County, Alabama Circuit Court challenging the validity of the occupational tax levied by Jefferson County. The county reports it will continue to collect the occupational tax unless it is ordered otherwise by the final judgment of a court of last resort. The occupational tax is a primary revenue source for Jefferson County (G.O. rated Aa2). The first \$10 million collected annually through 2008 has been pledged to support the Birmingham Jefferson Civic Center Authority (BJCC) Special Tax Refunding Bonds, Series 2002 A and B, rated Aa3.

Should tax receipts be interrupted prior to Jefferson County's final payment on the BJCC bonds (December 2008), the credit quality of the bonds would be negatively affected.

The occupational tax provided Jefferson County's General Fund a net \$53 million in fiscal 2006 (25% of General Fund revenue, net of transfer to BJCC). The county maintains sizable reserves (\$43 million in the General Fund and \$116 million in the Debt Service Fund in 2006). The loss of this primary revenue source, however, could markedly impact ongoing financial operations absent augmentation of other revenue sources, on which the county has limited flexibility, or expenditure reduction.

At issue in the current litigation is the validity of a bill passed by the Alabama Legislature in 2000, which purported to repeal the 1969 Act pursuant to which the County levied the tax. This bill garnered 14 votes, which comprised the majority of those voting when the vote was taken. A 2002 circuit court ruling found that there were insufficient votes because there was not support from a majority of a quorum of the legislative body, thereby rendering the Act to be unconstitutional. The tax remained in place. A subsequent (2005) and technically unrelated Alabama Supreme Court ruling held that no state court has jurisdiction to determine the necessary vote requirement for legislative action, stating that this is a legislative prerogative. It is on the grounds of this 2005 ruling that the failure to enact the repeal of the tax is now being litigated. The suit alleges that, based on the 2005 court ruling, the 2000 state legislative vote did not require a quorum of the full legislature and that the 14 votes were sufficient to repeal the tax. In addition to a repeal of the tax, the lawsuit seeks a refund of all occupational taxes collected by Jefferson County since 2000, approximately \$400 million. The county assumes that any lower court verdict will be appealed and it is estimated by the county that this case could reach the Alabama Supreme Court within one year.

The county agreed in a 1989 Pledge and Appropriation Agreement to provide the first \$10 million in revenue from the occupational tax in years 1989-2008 to the Birmingham Jefferson Civic Center Authority (BJCC). This revenue source, along with a pledge of \$3 million per year from the City of Birmingham's occupational tax in years 1992-2011 (not subject to litigation), secures the Authority's Special Tax Refunding Bonds, Series 2002A and B. These bonds are rated Aa3 based upon Moody's expectation of continued collection of the occupational tax by the county through the end of 2008 (and the city through 2011) on behalf of the Authority. Of the \$31 million that remains outstanding, \$20 million is due from Jefferson County in \$5 million increments on June 25, 2007, December 25, 2007, June 25, 2008 and December 25, 2008. In the event the tax is repealed or collection is interrupted, credit quality of the 2002 bonds could be impacted.

Moody's will continue to monitor the pending litigation and to evaluate the potential impacts on Jefferson County's Aa2 General Obligation bond rating and the BJCC's Special Tax Refunding Bonds, Series 2002A and B.

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